

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Sections 2676, 2681, 2735, and 2783 of Title 3 of the California Code of Regulations pertaining to commercial feed.

A public hearing concerning the proposed action will be heard on December 4, 2003, at 10:00 a.m., at the Red Lion Hotel, 1612 Sisk Road, Modesto, CA 95350.

A representative of the Department of Food and Agriculture will preside at the hearing. Any interested person may appear and be heard. Persons who wish to speak are requested to register prior to the hearing. Registration will be conducted at the location of the hearing from 9:00 a.m. to 10:00 a.m. Persons will be heard in the order of their registration. The presiding officer may limit the time for each presentation in order to allow all interested persons an opportunity to speak. Any other person who wishes to speak at the hearing will be afforded such opportunity after the registered persons have been heard.

Any interested person who does not wish to speak may present written statements to the presiding officer at the hearing, or may submit written statements on or before December 1, 2003 to the agency officer named below.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry by ensuring in every way possible a clean and wholesome supply of meat, milk, and eggs for the benefit of the consumer. (Food and Agricultural Code, Sections 407 and 14901). Existing law provides that the Secretary may adopt regulations as he deems necessary to circumscribe and prevent adulterated feed to protect California's agricultural industry and the consumer (Food and Agricultural Code 14902).

The amendment of Section 2676, revises subsection (c) to indicate that only premixes that contain more than 272.4 mg/lb added selenium are required to maintain a daily inventory record.

The amendment of Section 2681 corrects subsection (a) to indicate that commercial feed containing prohibited mammalian tissues is not approved for ruminant animals.

The amendment of Section 2735 revises the following subsections:

Subsection (a) is being revised to subsections (a) and (b) to clarify certification and aflatoxin B1 testing requirements for cottonseed products originating outside of California. The new subsection (a) requires that all cottonseed products originating outside of California, regardless of their state of origin's requirement for aflatoxin B1 testing, be analyzed for aflatoxin B1 and comply with a 20 ppb tolerance. All shipments shall be accompanied by a Certificate of Movement and an analysis certificate reporting aflatoxin B1, and shall guarantee the percent ash, crude fat, protein, fiber, free fatty acids in the oil, moisture, and foreign material. The new subsection (b) contains existing language for the shipment of cottonseed products that do not meet the aflatoxin B1 tolerance.

Subsection (b) is revised to require that documentation for shipment by railcar, truck, ship, barge, air transport, or other form of transportation of cottonseed products be "affixed to, or" accompany the lot to the purchaser.

Subsection (c) is revised to require that laboratory certifications for cottonseed products originating in Riverside and Imperial Counties shall be "affixed to, or accompany the cottonseed products to the purchaser."

Subsection (d) is being deleted to clarify and remain consistent with the revised appeal process stated in Section 15080, Title 3, Food and Agricultural Code.

Subsection (e) is revised by deleting Room A-472 to reflect a change in the mailing address.

The amendment of Section 2783 revises subsection (j) to establish the additional quality standards of percent free fatty acids in the oil, moisture, and foreign materials in cottonseed, to better define whole cottonseed; subsection (k) is added to define prime whole cottonseed.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Secretary of the Department of Food and Agriculture has determined that Sections 2675, 2676, 2681, 2694, 2695, 2697, 2701, 2734, 2773.1, 2773.5, 2774, 2774.5, 2775, 2778, 2782, 2783, 2783.5, 2788, 2789, 2790, 2790.5, 2793, 2794, 2796, 2798, 2799, 2801 and 2802 do not impose a mandate on local agencies or school districts.

FISCAL IMPACTS

No reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no

nondiscretionary costs or savings to local agencies or school districts, and no costs or savings to any state agencies and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, and (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Secretary of the Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Sections 2676, 2681, 2735, and 2783 pursuant to the authority vested by Sections 407 and 14902 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes to amend Sections 2676, 2681, 2735, and 2783 to implement, interpret and make specific Sections 14903, 15011, 15031, 15041, 14992 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESSES

The amendment of these regulations may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, and request for a public hearing may be directed is: (a) Dr. Stephen Beam, Acting Program Supervisor; (b) back-up for Dr. Beam is Maryam Khosravifard, Associate Environmental Research Scientist; and (c) questions of a technical nature may be directed to Michael Davidson, Program Specialist. All of the above persons are located at the Department of Food and Agriculture, Division of Inspection Services, Agricultural Commodities and Regulatory Services Branch, 1220 N Street, Sacramento, California 95814, phone (916) 445-0444. Written comments may be sent via fax to (916) 445-2171 or e-mail to mkhosrav@cdfa.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request or the Internet at <http://www.cdfa.ca.gov/newsinfo/regulations.html>. The location of the information on which the proposal is based may also be obtained upon request.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulation prior to the date of adoption by contacting the agency officer named herein.

FINAL STATEMENT OF REASONS AND INTERNET ACCESS

The final statement of reasons, when available, can be obtained from the agency contact person or the Internet at <http://www.cdfa.ca.gov/newsinfo/regulations.html>. Documents pertaining to this rule making action may be accessed at <http://www.cdfa.ca.gov/newsinfo/regulations.html>.

DEPARTMENT OF FOOD AND AGRICULTURE

Date

Valerie Brown, Deputy Secretary